IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.6183 OF 2006

DATE OF DECISION: 17.8.2006

Smt.Kamlesh

..... PETITIONER

VERSUS

State of Haryana and another

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr.RK Malik,Advocate for the petitioner.
Mr.Harish Rathee,Sr.DAG, Haryana for the State.

M.M.KUMAR,J. (ORAL)

The challenge in the instant petition is to the orders dated 7.6.2005 (Annexure P-3) and 18.8.2005 (Annexure P-5). The orders have rejected the claim of the petitioner, who had sought compassionate appointment on account of the death of her husband in harness.

Brief facts may fist be noticed. Sh. Mewa Singh who was husband of the petitioner was appointed as a Clerk on adhoc basis on 24.11.1994. He has died in harness on 05.03.2004. On 15.4.2005 respondents have regularised his services w.e.f. 01.10.2003 vide order Annexure P-2. The widow-petitioner applied for compassionate appointment on account of the death of her husband on 30.04.2004. She has disclosed in her application (Annexure P-1) that she belonged to Scheduled

Caste community being Chamar and has 'no source of income even for taking food'. She has two children aged about two and four years. She disclosed that her father-in-law and mother-in-law were also dependent on her deceased husband and that they have no immovable property. The application of the widow-petitioner has been rejected on 15.04.2005 by respondent No.2 by passing the following order (Annexure P-2):-

> "In terms of the Haryana Government notification No. GSR-24/Const./Ar.309/2003 dated 1.10.2003 circulated vide No.6/9/2003-IGSI dated 3rd October 2003 and notification No. GSR/I/Const./Ar.309/2004 dated 10.2.2004 circulated vide letter No. IGSI dated 11.2.2004 and as per the advise of the Financial Commissioner and Principal Secretary to Govt. of Haryana, Election Department conveyed vide its letter No. 1/11/98-I Election dated 6th April 2005, the services o late Shri Mewa Singh, Clerk (expired on 5.3.2004), who was working on Adhoc basis in this Department in the pay scale of Rs.3050-75-3950-EB-4590 are hereby regularised with effect from 1.20.2003."

The widow-petitioner preferred an appeal before respondent No.1 who has rejected the same by observing that her husband did not complete three years service on regular basis as contemplated by Rule 3(d)(ii) of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules 2003 (for short 'Rules').

` Mr.R.K.Malik, learned counsel for the petitioner has argued that Rule 3(d) of the Rules,which defines the expression 'deceased Government employees' does not require that such an employee should

have rendered atleast three years of regular service. According to the learned counsel in order to interpret the rule in the manner it is construed by the respondents, the words 'regular service' has to be added to Rule 3 (d) (ii) of the Rules. He has emphasized that these Rules should be construed in a manner which would advance the object of the rule, which is ameliorate sufferings of the family of the deceased employee and should not be construed strictly as has been done by the respondents.

Learned State counsel,however, has argued that the rule deserves to be interpreted in the light of Rule 3(d)(i) of the Rules, which lays down that a deceased Government employee would mean only such an employee who has been appointed on regular basis, and not working on daily wages, casual, apprentice, work charged, adhoc, contractual or re-employment basis. According to the learned counsel if Rule 3(d)(ii) is interpreted in the aforesaid manner then it would mean that only an employee with regular service of three years could be considered to have conferred any rights on his dependents to claim compassionate appointment or ex-gratia compensation.

Having heard learned counsel for the parties, we are of the considered view that a strict view as has been taken by the respondents would be unwarranted in matters concerning compassionate appointment. The object of Rules contemplating compassionate appointment is to provide some succour to the family of the deceased Government employee, who is virtually the bread earner of the family. It advances a social object of rescuing such a family from the clutches of a sudden event plunging the whole family into penury and haplessness. The social object as sought to be achieved by the Rules cannot be defeated by strictly construing the rules as

had been done by the respondents. For facility of reference, we reproduce the rule here under:-

> " 3(d) " Deceased Govt. Employees" means a Government employee-
>
> (i) appointed on regular basis, and not working on daily wages, casual,apprentice, work charged, adhoc, contractual or reemployment basis;
>
> (ii) who has served the Government for at least 3 years;
>
> (iii) who should not have crossed the age of 55 years."

If rule 3(d)(ii) of the Rules is read ejusdem generis as suggested by the learned State counsel rather than interpreting both the clauses independently of each other then the basic object of the rules of ameliorating the sufferings of dependents of deceased Government employee would stand defeated. Such is not the intention of the rule making authority. It is trite to observe that socio economic legislation is required to be interpreted by keeping in view the object sought to be achieved by such legislation. Moreover, Rule 3(d)(ii) has to be read down by adding words regular service. The plain meaning of the Rule is that an employee should have served the Government for at least for three years which the husband of the petitioner has done. It is also pertinent to notice that any adhoc service followed by regularisation is to qualify for pension as has been held by the Full Bench of this Court in **Kesar Chand v. State of Punjab 1988(2) P.L.R. 223.** Therefore, we regret our inability to agree with the learned State counsel and reject the interpretation preferred by the respondents in the impugned orders dated 7.6.2005 (Annexure P-3) and 18.8.2005 (Annexure P-5).

In view of the above, the writ petition is allowed, impugned orders dated 7.6.2005 (Annexure P-3) and 18.8.2005 (Annexure P-5) are hereby quashed. The respondents are directed to consider the case of the petitioner for offering her employment on compassionate basis in lieu of the death of her husband, who has died on 5.3.2004. The needful shall be done within a period of two months from the date of receipt of a certified copy of this order.

(M.M.KUMAR)
JUDGE

August 17, 2006
TSM

(M.M.S. BEDI)
JUDGE